

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

THE PENNSYLVANIA STATE
UNIVERSITY,

Plaintiff,

v.

VINTAGE BRAND, LLC; et al.,

Defendants.

Case No. 4:21-cv-01091-MWB
Hon. Matthew W. Brann

JURY TRIAL DEMANDED

STIPULATED FACTS

The parties The Pennsylvania State University, Vintage Brand, LLC, Sportswear, Inc., and Chad Hartvigson stipulate to the following facts:

1. Vintage Brand, LLC formed in September 2017. Vintage Brand's members (i.e., owners) consist of co-founders: Chad Hartvigson, Erik Hartvigson, and Michelle Young. Chad Hartvigson owns 70% of Vintage Brand, while Erik Hartvigson and Michelle Young each own a portion of the remaining 30%. Vintage Brand has no W-2 employees.

2. Vintage Brand owns and operates a website, <vintagebrand.com>, where consumers can purchase print-on-demand apparel, drinkware, and other goods.

3. Vintage Brand owns a collection of sports memorabilia, which consists of pennants, buttons, game tickets, decals, brochures, patches, stickers, trading cards, and programs bearing images from collegiate sporting events of the past ("memorabilia").

4. Vintage Brand's business model consists of selecting and scanning images or parts of images from its collection of memorabilia and memorabilia owned by others and printing those scanned images or parts of images on blank products, such as t-shirts, sweatshirts, hats, socks, drinkware, and other items. These products are offered for sale to customers across the United States through Vintage Brand's website at <vintagebrand.com>.

5. From 2018 to 2021, Vintage Brand's website included, among other

things, a Team Page entitled “Penn State Nittany Lions Vintage Designs,” on which it made available merchandise featuring roughly 35 images related to Penn State.

6. Vintage Brand first sold a product bearing Penn State-related images in May 2018.

7. Sportswear Inc., also called Prep Sportswear, formed in 2005. Chad Hartvigson is CEO of Sportswear and owns 30% of the outstanding shares in Sportswear; the remaining 70% are owned by 14 individuals.

8. Sportswear owns a manufacturing facility in Kentucky. Because Vintage Brand did not have its own manufacturing facility during the time relevant to this lawsuit, Vintage Brand contracted with Prep Sportswear to manufacture and ship all of the goods sold through Vintage Brand’s website and to provide customer service for Vintage Brand.

9. Penn State was founded in 1855.

10. Penn State owns U.S. Registration No. 1,308,610 for the word mark PENN STATE, which covers decals, stickers, decorative wall plaques, drinking mugs, tankards, glasses, cups, tumblers, pennants, banners, shirts, t-shirts, sweatshirts, socks, hats, and non-textile wall hangings.

11. U.S. Registration No. 1,308,610 was registered on December 11, 1984.

12. Penn State owns U.S. Registration No. 5,766,698 for the word mark PENN STATE, which covers decorative magnets, drinking glasses, cutting boards, fabric flags, hooded sweatshirts, sweatpants, caps being headwear, coasters, and jigsaw puzzles.

13. U.S. Registration No. 5,766,698 was registered on June 4, 2019.

14. Penn State owns U.S. Registration No. 1,315,693 for the word mark THE PENNSYLVANIA STATE UNIVERSITY, which covers decals, drinking mugs, tankards, glasses, cups, and tumblers.

15. U.S. Registration No. 1,315,693 was registered on January 22, 1985.

16. Penn State owns U.S. Registration No. 5,399,989 for the word mark THE PENNSYLVANIA STATE UNIVERSITY, which covers hats, jackets, shirts, shorts, sweatshirts, and t-shirts.

17. U.S. Registration No. 5,399,989 was registered on February 13, 2018.

18. Penn State owns U.S. Registration No. 5,742,516 for the word mark THE PENNSYLVANIA STATE UNIVERSITY, which covers decorative magnets and fabric flags.

19. U.S. Registration No. 5,742,516 was registered on May 7, 2019.

20. Penn State owns U.S. Registration No. 5,305,910 for the Pozniak Lion design mark, which covers hats, t-shirts, and sweatshirts.

21. U.S. Registration No. 5,305,910 was registered on October 10, 2017.

22. Penn State owns U.S. Registration No. 1,276,712 for the University Seal design mark, which covers decorative magnetic stickers, decals, stickers, decorative wall plaques, drinking mugs, tankards, glasses, cups, tumblers, pennants, shirts, t-shirts, sweatshirts, shorts, and hats.

23. U.S. Registration No. 1,276,712 was registered on May 8, 1984.

24. Penn State owns U.S. Registration No. 5,877,080 for University Seal design mark, which covers coasters, ceramic mugs, fabric flags, banners of textile, and hooded sweatshirts.

25. U.S. Registration No. 5,877,080 was registered on October 8, 2019.

26. Penn State owns U.S. Registration No. 1,350,286 for Lion Shrine design mark, which covers decorative magnetic stickers, decals, drinking mugs, tankards, glasses, cups, tumblers, pennants, shirts, t-shirts, sweatshirts, and hats.

27. U.S. Registration No. 1,350,286 was registered on July 23, 1985.

28. Vintage Brand owns U.S. Registration No. 6,029,818 for the logo below for use in connection with online retail store services:

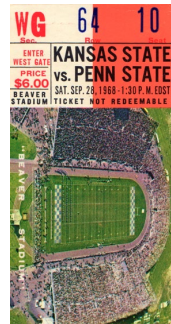
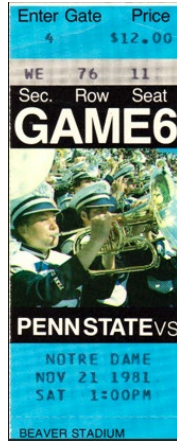


29. Vintage Brand has sold and/or offered to sell t-shirts, sweatshirts, hats, koozies, pennants, drinkware, coasters, posters, magnets,

wall art, socks, puzzles, and cutting boards featuring images related to Penn State.

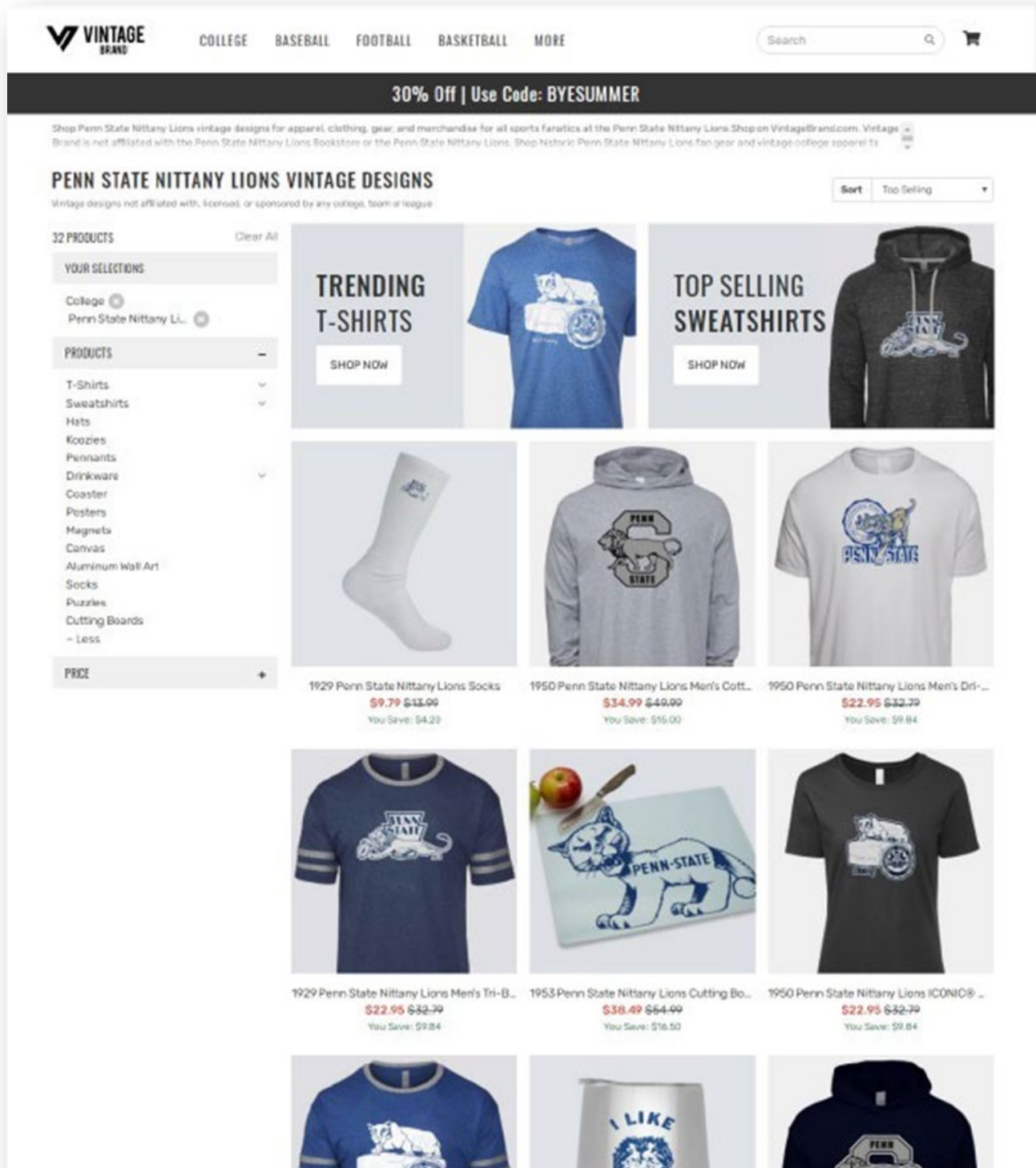
30. The Penn State-related images that have been depicted on merchandise offered and sold by Vintage Brand include, but are not limited to, the following images:





31. The Vintage Brand website has numerous pages, including: (a) a “Home Page,” the main landing page on the domain <www.vintagebrand.com>; (b) “Team Pages,” secondary landing pages with vintage imagery related to specific teams or institutions; and (c) “Product Pages,” pages showing digital mock-ups of potential product offerings utilizing artwork from Vintage Brand’s collection of memorabilia.

32. A representative screen capture of Vintage Brand’s Penn State Nittany Lions Vintage Designs Team Page is shown here:



33. The Vintage Brand website features specific pages for each item

offered for sale. An image of the top of an example Product Page is shown here:



34. Vintage Brand's Penn State Nittany Lions Vintage Designs "Team Page" contains text beneath the header which reads "Vintage designs not affiliated with, licensed or sponsored by any college, team or league."

Vintage Brand's "Product Pages" showing merchandise with Penn State-related imagery contain text beneath the header which reads "By Vintage Brand™ not affiliated with or sponsored by Penn State Nittany Lions."

35. Vintage Brand sold 1,269 products through the Penn State Nittany Lions store on vintagebrand.com.

36. Vintage Brand received revenues from sales through the Penn State Nittany Lions store amounting to \$23,219.27.

37. Neither Vintage Brand, Prep Sportswear, nor Chad Hartvigson have a license to use any of Penn State's trademarks.

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Dated: November 12, 2024

/s/Lucy Jewett Wheatley

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Stipulated Facts with the Clerk of the Court using the CM/ECF system on November 12, 2024, which constitutes service on Defendants pursuant to Fed. R. Civ. P. 5(b)(2)(E):

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